

REMARKS

This amendment is a substitute for the amendment filed on April 12, 2004. Please disregard that earlier-filed amendment. Claims 1, 7 and 13 have been amended and claims 3-5, 9-11, and 15-17 have been cancelled. New claims 19-24 have been added to further protect applicants' invention. Accordingly, claims 1, 2, 6, 7, 8, 12-14 and 18-24 are presented for examination.

Claim 1 has been amended to recite a) receiving on a supply chain management computer sales data from a plurality of independent stores of a franchise supply chain utilizing a network, the sales data comprising completed sales of goods from a plurality of the independent stores on at least a daily basis; b) allowing a plurality of suppliers that have been pre-screened by an independent supply chain manager based on a criteria access to the sales data utilizing a network-based interface, wherein at least one of the suppliers is not a current supplier for the plurality of the independent stores; c) allowing a plurality of the suppliers including the at least one supplier to display and offer at least one product and/or service related to the production or distribution of the goods to the independent stores based on the sales data, wherein each offer is unsolicited and not made in response to an auction but is made based on an assessment by the supplier making the offer of the sales data and at a time controlled solely by the supplier making the offer utilizing the network-based interface; d) allowing each of the plurality of the suppliers including the at least one supplier to display an advertisement relating to the product and/or service offered to at least one of the respective independent stores in conjunction with the offer of the product and/or service by the supplier to the respective independent stores; and e) allowing acceptance at a time not related to an auction schedule of the offer on the goods by at least one of the independent stores utilizing the network. Note that the sales data is on at least a daily basis and could be in real time. The basis for these changes may be found at pages 49-54 and 244-245 of applicants' specification. Comparable amendments have been made to claims 7 and 13.

Additionally, claims 1, 7 and 13 have been amended to obviate the section 112 objection in the office action.

The invention is directed to creating purchasing power in a virtual company context for single independent store purchaser to obtain prices which, prior to this invention, could only be extracted by the largest retailer purchasers, such as Walmart. In the claimed method, system, and program product, suppliers, both inside and outside of the supply chain system who are pre-qualified by the independent supply chain manager are provided with POS data from a plurality of franchise stores on at least a daily basis. For example, in the context of a restaurant, the POS sales data may indicate that store A has sold 50 cases of hamburgers a day for multiple weeks. This sales data is accessed by various suppliers, who may accumulate this sales data over a time frame that is most

appropriate for the individual supplier. For example, one supplier may accumulate the data for a two week period. That company may then make an unsolicited offer to supply the products, such as cheese slices, hamburger, and pickles, that are used for the production of the goods that were sold. This visibility of the POS data to multiple suppliers places the multiple suppliers in a blind competitive position, wherein they are motivated to offer their best prices for their products in their own time frame when they individually believe that the POS data warrants such an offer. However, this blind position can be countered through the allowance of advertising by the supplier relating to the offered products, to permit the highlighting of features designed to obtain a price premium from the store (our cheese slices are grade A, for example).

Claims 1-18 were rejected under 35 USC 103 as being unpatentable over Perkowski (US 2003/0009392). This rejection is respectfully traversed.

Perkowski relates to providing product information applets for use in web documents to be used for online auctions and embedding in auction pages. Advertisements for a given product appear when the universal product number for that product is entered. The examiner makes reference to paragraphs 54 and 56 in Perkowski. These paragraphs relate to creating Applets for product related information. As the examiner notes, Perkowski does not disclose the display aspect, or the advertisement of products required for the production of goods, much less as defined in the present combination. Moreover, Perkowski discloses the use of kiosks near point of sale outlets to display advertisements. No reference was found to receiving point of sale data from a plurality of independent stores and permitting a plurality of suppliers including at least one supplier that is not a current supplier for the respective independent store to access that data and make unsolicited offers in response thereto in an uncontrolled time frame.

Note that the office action makes a number of statements relating to the selected steps of displaying, advertising, and setting charges being obvious design choices for one or ordinary skill in the art. If this is again asserted in a future office action, it is timely requested that this position be substantiated with prior art references, per MPEP 2144.03, and that a suggestion in the prior art be pointed out for a motivation to combine each of these elements to realize the claimed combination. In view of the fact that multiple elements are missing from these references, such proof is essential to nullify the potential that applicants' specification is being used as a blueprint for such a combination.

New dependent claims 19-21 have been added to cover the aspect of charging the suppliers for access to the sales data. New dependent claims 22-24 have been added to cover the aspect of pre-qualifying the suppliers for access to the sales data based on a predetermined criteria such as a supplier performance characteristic.

In view of the foregoing amendments and remarks, the case is now in a condition for allowance. Early reconsideration and passage to issue is respectfully requested.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

6/8/04

By



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